

## **REMARKS**

This application has been reviewed in light of the Office Action mailed January 27, 2009. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1 – 14 are pending in the application with Claims 1 and 13 being in independent form. By the present amendment, Claims 1, 3, 6 and 13 are amended, and Claims 2 and 9 are canceled.

Claims 1 and 13 is amended to include the features recited in Claims 2 and 9, and Claims 3 and 6 are amended to correct dependencies. Therefore, no new subject matter is introduced into the disclosure by way of the present amendment.

### **I. Rejection of Claims 1 – 14 Under 35 U.S.C. § 112, Second Paragraph**

Claims 1 – 14 are rejected under 35 § U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Specifically, the present Office Action avers that the claims are in narrative form and replete with indefinite and functional or operational language. Also the claims must be expressed in one sentence only.

Means-plus-function claims are permissible under 35 U.S.C. § 112, sixth paragraph. Moreover, Claims 1 – 14 are believed to be written in accordance with standard practice of the U.S. Patent and Trademark Office for means-plus-function claims. In this regard, Applicants point to MPEP 2181(I) for guidance regarding “means-plus-function” claims.

Additionally, an attempt has been made to address the issues indicated in the rejection. However, it is noted that without explicit citation of problematic phraseology in the claims, it is unclear what exactly about the claims is rejected under 35 § U.S.C. § 112, second paragraph.

Therefore, Applicants request additional guidance in future Office Actions regarding what phrasing in the claims is considered indefinite, narrative, and/or impermissibly functional.

Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 1 – 14 under 35 U.S.C. § 112, second paragraph.

## **II. Rejection of Claims 1 – 10 and 13 – 14 Under 35 U.S.C. § 102(b)**

Claims 1 – 10 and 13 – 14 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by WIPO Publication No. WO 98/58338 issued to Graham et al. (hereinafter, “Graham”).

The present Office action asserts that Graham discloses all the features recited in the claims. However, Graham fails to properly anticipate, or even suggests, detecting that diagnostic support content stored in the diagnostic support content storage means is at least updated or added, as recited in amended Claims 1 and 13.

Instead the passage cited in the Office Action discloses that when the evaluation routine is exited, the evaluation is saved in the database. (See: page 18, lines 5 – 6). No detection is made regarding whether the evaluation has been updated or added. Moreover, the detection in the claimed apparatus is performed on diagnostic support content that is already stored in the diagnostic support content storage means, not on an evaluation that is going to be stored in a storage means.

It is well-settled by the Courts that “[A]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company, et al., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984).

Therefore, as demonstrated above, because Graham does not disclose each and every element recited in the present claims, Applicants respectfully submit that the rejection has been

obviated for at least the reasons presented above. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 1, 3 – 8, 10 and 13 – 14 under 35 U.S.C. § 102(b).

### **III. Rejection of Claims 11 and 12 Under 35 U.S.C. § 103(a)**

Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Graham in view of U.S. Patent No. 5,779,634 issued to Ema et al. (hereinafter, “Ema”).

Claims 11 and 12 depend from independent Claim 1 and thus include all the features recited in that independent claim. Ema fails to overcome the deficiencies identified above in Graham. Specifically, Ema, taken alone or in any proper combination with Graham, fails to disclose or suggest a detection means for detecting that diagnostic support content stored in the diagnostic support content storage means is at least updated or added.

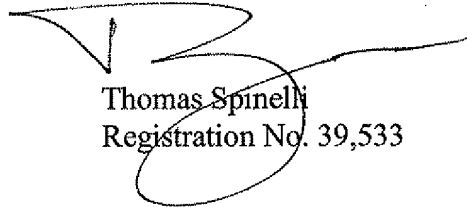
Therefore, Claims 11 and 12 are believed to be allowable over the cited prior art references for at least the reasons presented above. Accordingly, Applicants respectfully request withdrawal of the rejection with respect to Claims 11 and 12 under 35 U.S.C. § 103(a) over Graham in view of Ema.

### CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1, 3 – 8 and 10 – 14 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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